



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/919,794	08/02/2001	John F. Broker	BRO009-162	4309
7590 06/29/2010 Whirlpool Patents Company -MD 0750 500 Renaissance Drive Suite 102 St. Joseph, MI 49085				
EXAMINER				
HAILU, TADESSE				
ART UNIT		PAPER NUMBER		
2173				
MAIL DATE		DELIVERY MODE		
06/29/2010		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/919,794  
Filing Date: August 02, 2001  
Appellant(s): BROKER ET AL.

---

Diederiks, Everett  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed October 30, 2008 appealing from the Office action mailed June 17, 2008.

**(1) Real Party in Interest**

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The following is a list of claims that are rejected and pending in the application: 1-20.

**(4) Status of Amendments After Final**

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

**(5) Summary of Claimed Subject Matter**

The examiner has no comment on the summary of claimed subject matter contained in the brief.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection are provided

below under the subheading "NEW GROUNDS OF REJECTION". Specifically, Claims **15-20** is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

#### **(7) Claims Appendix**

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

#### **(8) Evidence Relied Upon**

5,390,005	KIMOTO et al	02-1995
5,708,787	NAKANO et al	01-1998
5,086,385	LAUNEY et al	10-1998
5,818,428	EISENBRANDT et al	10-1998

#### **(9) Grounds of Rejection**

##### **Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

a) Claims 1-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Kimoto et al (US Pat. No. 5, 390,005).

Prelude – field of the current invention

The present invention is directed to a display system for an appliance incorporating an electronic interface screen, wherein the display screen can be used to present a wide range of information concerning operational, diagnostic and other data concerning the appliance. Simply put it, the invention is directed to operating/selecting hierarchical touch screen menus embedded on an appliance (e.g. washer/dryer machine).

Prelude -field of invention of the applied prior art

Similarly, Kimoto, the applied prior art is directed to operating/selecting hierarchical touch screen menus embedded on an appliance (e.g. copying machine of Kimoto). Similarly, Nakano, the applied prior art is directed to operating/selecting hierarchical touch screen menus embedded on an appliance (e.g. any appliance). Similarly, Launey, the applied prior art is directed to operating/selecting hierarchical touch screen menus embedded on an appliance (e.g. home appliance). Similarly, Eisenbrandt, the applied prior art is directed to a control system with a user configurable interface (touch screens), particularly suitable for use in connection with appliances (e.g., washer/dryer). Thus, the cited references, either individually or in combination, is

legally satisfy for the purpose of anticipating and/or rendering obvious claims 1-20 herein as follows.

With regard to claims 1, 8 and 15:

Kimoto discloses a method of indicating a setting screen of an image forming machine on which a touch-panel is displayed, wherein automatic setting conditions and a manual mode button are displayed on an initial screen; and when a touch operation is conducted on the manual mode button, a manual setting screen is indicated and an operating condition can be manually set by a touch operation on the manual setting screen.

Similar to the claimed invention, Kimoto discloses a method of conveying information on a display screen of an appliance (image forming apparatus, e.g., copying machine)

The method of Kimoto includes dividing the screen into a plurality of selectable regions (zones) (e.g., see any one of Figs. 1 through 22).

Kimoto also discloses displaying a first set of information in one of the plurality of selectable zones (e.g. a first set of information could be set of information located or represented in the top region, middle or bottom region as shown in the initial screen of Fig. 2, for example).

Kimoto also discloses selecting one of the region information or button command will display associated lower level sub menus (second set of information), wherein such lower level menus will substantially encompass the entire screen. For example, when

the lens mode button 21 is pressed on the initial screen shown in FIG. 2, magnification-selection screen in FIG. 3 is displayed.

As shown in Fig. 3, when lens mode is selected, the associated additional information or lower level sub menu substantially encompasses the entire screen (see the selected item from region of Figs. 2, as shown enlarged in Fig. 3, column 5, lines 27-29). Similarly when copy size button 24 is pressed on the initial screen in FIG. 2, tray-selection screen in FIG. 5 is displayed, substantially encompassing the entire screen (Figs. 2, and 5, column 5, lines 62-64).

Again, as required by claim 1, Kimoto discloses displaying a first set of information in one of the plurality of selectable zones (For example, LENS MODE 21); and causing said one of the plurality of selectable zones (for example, selecting LENS MODE 21) to become enlarged (i.e., being joined/rendered with lower sub-menus), while automatically presenting a second set of information (for example, see at least PRESET 1-PRESET 9, FIG. 3) with the First set of reformation (for example, select magnification (i.e., for the lens mode 21), the second set of information ( for example, see at least PRESET 1-PRESET 9, FIG. 3), representing additional details (i.e., additional details for the selected higher level menu - Lens mode/magnification) concerning the first set of information on the screen, wherein said one of the plurality of selectable zones, including both the first and second set of information, substantially, entirely encompasses the screen (see the selected higher level menu - Lens mode/magnification and sub menu – at least preset 1-9 are shown entirely encompasses the screen in Fig. 3).

With regard to claims 2, 9 and 16:

Kimoto, as shown in Figs. 2, discloses that the initial screen includes operation panel function or information, wherein the information includes operational parameters and other information and help mark (?) button (109) (help code).

With regard to claims 3, 10 and 17:

Kimoto describes that when the help (?) mark (code) is selected, additional information (second set of information - lower level menu or sub-menu constitutes definitions of said diagnostic codes (see condition-setting check screen FIGS 17 AND 20, (column 7, lines 2-6, column 15, lines 43-48).

With regard to claims 4 and 11:

Kimoto, in the initial operational panel (Fig. 2), discloses initial screen (Fig. 2) includes help (?) code, to help diagnosis the target copy machine, such as how to clear the jammed paper, etc (column 7, lines 2-6).

With regard to claims 5, 12 and 18:

Kimoto describes that the initial screen, Fig. 2, includes three main region in which two of the selectable regions are exactly equal sized (top and bottom regions), and the middle region is substantially similar the two regions (see at least Fig. 2). Thus, Kimoto illustrates that the initial screen is divided into three substantially equally sized regions as required in the claim.

With regard to claims 6 and 13:



Kimoto discloses several screen information (Fig.2-21) arranged in a hierarchical format. For example, when the lens mode button 21 is pressed on the initial screen shown in FIG. 2, magnification-selection screen (next or lower screen) in FIG. 3 is displayed (column 5, lines 27-29).

With regard to claims 7, 14 and 19:

Kimoto discloses a touch screen, wherein touching the screen enlarges said one of the plurality of zones. For example, when the lens mode button 21 is pressed on the initial screen shown in FIG. 2, magnification-selection screen (next or lower screen) of FIG. 3 is displayed, by taking the entire screen (enlarged) (column 5, lines 27-29).

b) Claims 1, 8 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Nakano et al (US Pat. No. 5,708,787).

With regard to claims 1, 8 and 15:

Nakano relates to a menu display device which is to be installed in computers and domestic appliances that use display screens and which is used for the selection and setting of appliance functions by a user and for displaying menu items for selected data.

Similar to the claimed invention, Nakano teaches a method (e.g., Fig. 8) of conveying information on a display screen of an appliance (e.g., Fig. 8).

The method of Nakano also includes dividing the screen into a plurality of regions (or column regions) or zones of menu items (column 1, lines 6-11, e.g., Fig. 3).

The method of Nakano also includes displaying a first menu item (first set of information) on one of the plurality of regions (zones) (e.g., Fig. 3, displaying on the initial screen (Menu 0) having Item Name A, Item Name B, Item Name C, or Item Name D).

The method of Nakano also includes selecting one of the items from the initial screen (Menu 0), will display the associated lower level sub menu items (second set of information), substantially encompassing the entire screen. For example, selecting Item Name B from the initial screen (Menu 0) will display the associated additional information or lower level sub menu 2 (Fig. 3) on the screen (column 6, lines 12-50).

c) Claim 1, 8 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Launey et al (US Pat. No. 5,086,385)

Launey et al (Launey) discloses a system for and a method of providing an expandable home automation controller is disclosed which supports multiple numbers and multiple different types of data communications with both appliances and subsystems within the home as well as systems external to the home.

With regard to claims 1, 8 and 15:

The method of Launey includes conveying information on a display screen of an appliance (e.g., entertainment devices) (see FIG. 3A shows the main menu touch screen display) comprising:

dividing the screen into a plurality of selectable zones (see for example, FIG. 3A, illustrates divided selectable regions/zones for holding the main menu items);

displaying a first set of information in one of the plurality of selectable zones (again as illustrated in FIG. 3A, the divided selectable regions/zones holding main menu items (a first set of information); and

causing said one of the plurality of selectable zones to become enlarged (for example, selecting one of the main menu item, such as AUDIO/VIDEO - FIG. 3B), while automatically presenting a second set of information (i.e., a plurality of sub-menus of the selected AUDIO/VIDEO main menu item) with the first set of information (AUDIO/VIDEO main menu item - see FIG. 3B, the second set of information (i.e., see a plurality of sub-menus of the selected AUDIO/VIDEO main menu item, FIG. 3B), representing additional details (i.e., additional information or sub-menus associate with AUDIO/VIDEO main menu item) concerning the first set of information on the screen, wherein said one of the plurality of selectable zones including both the first and second set of information, substantially entirely encompasses the screen (see both the main menu item- AUDIO/VIDEO and a plurality of sub-menus of the AUDIO/VIDEO are displayed in a single screen, substantially entirely encompasses the screen – FIG. 3B).

### **Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

d) Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nakano as applied to claim 1 above, and further in view of Eisenbrandt et al (5,818,428).

With regard to dependent claim 20:

Nakano relates to a menu display device which is to be installed in computers and domestic appliance that use display screens and which is used for the selection and setting of appliance functions by a user and for displaying menu items for selected data (column 1, lines 6-11).

Nakano however, does not explicitly mention that the domestic appliance as being laundry appliance. Eisenbrandt on the other hand discloses a control system with a user configurable interface, particularly suitable for use in connection with domestic appliance, for example a dryer (Abstract and Fig. 1).

Both Nakano and Eisenbrandt are directed to configuring and incorporating user input means or user interface to an appliance. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to configure the display screen of Nakano to be operational and compatible with Eisenbrandt' dryer/washer appliance. Since both Nakano and Eisenbrandt discuss configurable display screen, user configurability of the interface permits a user to customize the control system interface to suit that user's particular needs (column 3, lines 16-26). Therefore, it would have been obvious to combine Nakano with Eisenbrandt to obtain the invention as specified in claim 20.

The following new ground(s) of rejection are applicable to appealed claims 15-20:

## NEW GROUND(S) OF REJECTION

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims **15-20** is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim recites the following means plus function limitation: "means for enlarging said one of the plurality of selectable display zones to substantially, entirely encompass the screen while automatically presenting a second set of information with the first set of information, the second set of information representing additional details concerning the first set of information on the screen."

This limitation invokes 35 USC § 112, ¶ 6 because it meets the 3-prong analysis set forth in MPEP 2181 as it recites the phrase "means for" or "step for" (or appellant identifies the limitation as a means (or step) plus function limitation in the appeal brief) and the phrase is modified by functional language and it is not modified by sufficient structure, material, or acts for performing the recited function. Also see *Altiris Inc. v. Semantec Corp.*, 318 F.3d 1363, 1375 (Fed. Cir. 2003). 35 USC § 112, ¶ 6, requires such claim to be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof. "If one employs means plus function language in a claim, one must set forth in the specification an adequate disclosure showing what is meant by that language. If an applicant fails to set forth an adequate disclosure, the applicant has in effect failed to particularly point out and

distinctly claim the invention as required by the second paragraph of section § 112." *In re Donaldson Co.*, 16 F.3d 1189, 1195, 29 USPQ 1845, 1850 (Fed. Cir. 1994)(in banc.). For a computer-implemented means-plus-function claim limitation that invokes 35 USC § 112, ¶ 6, the corresponding structure is required to be more than simply a general purpose computer. *Aristocrat Technologies, Inc. v. International Game Technology*, 521 F.3d 1328, 1333, 86 USPQ2d 1235, 1239-40 (Fed. Cir. 2008). The corresponding structure for a computer-implemented function must include the algorithm as well as the general purpose computer. *WMS Gaming, Inc. v. International Game Technology*, 184 F.3d 1339, 51 USPQ2d 1385 (Fed. Cir. 1999). The written description must at least disclose the algorithm that transforms the general purpose microprocessor to a special purpose computer programmed to perform the claimed function. *Aristocrat*, 521 F.3d at 1338, 86 USPQ2d at 1242.

In the instant application, the following portions of the specification and drawings may appear to describe the corresponding structure for performing the claimed function: Fig. 2B; Spec. 4-5 and 9-10.

However, the specification and drawings do not disclose sufficient corresponding structure, material or acts for performing the claimed function. It appears that the claimed means is broadly described on pages 5, 9, and 10 of the specification and broadly shown in figure 2B: However the specification does not specifically describe how the recited function is performed.

Specifically, the specification does not disclose one or more specific algorithms for implementing the claimed means on a machine. Therefore, Appellants have failed to

adequately describe sufficient structure for performing the claimed function. More specifically, the specification in page 4 indicates that the information is automatically expanded to provide additional data related to the selected field. The specification in page 9 indicates that the present invention provides for enlarging zone 18 to encompass the entire display 10 as represented in screen 300 and that an additional layer of information is added to the display, the additional information takes the form of expanded definitions for the error and help codes.

While the specification details the benefit of the enlarged display zones or LCD panels, the specification fails to describe the details of the specific algorithm that actually performs the enlargement of the display zones, i.e., means for enlarging the display zones.

Claims 16-20 depend from claim 15 and are rejected for the reasons set forth in connection with the rejection of claim 15 above.

#### **(10) Response to Argument**

Appellant's arguments filed in the Brief have been fully considered but they are not persuasive.

Prelude to the arguments -before the examiner responds to the appellant's arguments, the examiner would like the board to pay attention particularly to the Abstract, Figures 2A, and page 5, lines 10-15 of the Invention.

e) Regarding claims anticipated by Kimoto et al ('005), the applicant argues that Kimoto does not tech claims 1-19.

In regard to independent claims 1, 8 and 15, the applicant argues Kimoto does not cause one of the plurality of selectable zones to become enlarged while presenting a second set of information with the first set of information (the argument is directed or substantially maps to "causing said one of the plurality of selectable zones to become enlarged, ... substantially, entirely encompasses the screen." as recited in claim 1).

The examiner strongly disagrees because Kimoto does cause one of the plurality of selectable zones (having selectable items) to become enlarged (i.e., joined/rendered with its lower menu options or second set of information. Kimoto clearly illustrates the argued limitation at least in Fig. 2 followed by Fig.3. That is, as given rejection above, Kimoto discloses displaying a first set of information in one of the plurality of selectable zones (For example, LENS MODE 21); and causing said one of the plurality of selectable zones (for example, selecting LENS MODE 21) to become enlarged (i.e., being joined/rendered with its lower sub-menus or a second set of information.

The applicant argues that "a first set of information" and "a second set of information" are not disclosed by Kimoto. To begin with, mathematically speaking "a set" comprises zero or more element. Thus, as illustrated in several Figures (at least Figs. 2 and 3) a set of selectable command options or instructions are shown in each screen. Thus, in contrast to the applicant's alleged argument, Kimoto discloses the first set of information, that are shown in Fig. 2 (e.g. selectable command options) when one of the command options is selected, the selected command option enlarges/rendered to include its lower command options (i.e., second set of information) of Fig. 3. Thus, as illustrated the first set of information could be for example to select magnification (i.e.,



for the lens mode 21), and the second set of information is then for example, PRESET 1-PRESET 9, etc., FIG. 3).

in regard dependent claims 2, 9 and 16, Also not clearly argued by the appellant, as given rejection above, Kimoto discloses presenting the first set of information in a form of codes concerning operation of the appliance.

In regard to dependent claims 3, 4, 10, 11 and 17, the appellant argues that the help (?) mark of Kimoto does not equate with "diagnostic codes". The appellant also argues that the lower level menu or sub-menu of Kimoto et al. does not equate with definitions of the diagnostic codes. The appellant further argues that the examiner's interpretation of the "Diagnostics" option as the "first set of information" is simply wrong. The first set of information is not the "Diagnostics" option. This first set of information (i.e., error and help codes). (Note to the Board: this argument substantially attempts to maps to claims 3 and 4- (claim 3 recites ....., wherein the codes are diagnostic codes mad the second set of information constitutes definitions of said diagnostic codes. And claim 4 recites ..., wherein diagnostic codes are presented as the first set of information.

The examiner disagrees because the command option "help (?)" when selected yields help definition (lower command options) as the claimed "diagnostics" option (see rejection above). Furthermore, as alleged by the appellant neither claim 3 nor claim 4 cites the first set of information being "error and help codes". In addition, as illustrated in Figure 2A of the invention, one has to select "Diagnostics" option from screen 200 (which is the higher screen menu or first set of information) in order to reach "the error

and help code" screen 250 (which is the lower screen sub-menu or the second set of information). Thus, in sequence screens operations (Figs 2A through 2B); one of the higher screen command options (e.g., Diagnostic option from screen 200) has to be initiated prior to the lower screen "error and help codes" (from screen 250).

In regard to claims 5, 12 and 18. the applicant argues that the screen shown in Figure 2 is not divided into "a plurality of selectable zones" wherein the zones are "substantially equally sized areas", but instead simply teaches a number of buttons from which a user can select (this part of the argument is directed to read "... wherein the plurality of selectable zones are divided into substantially equally sized areas" of claim 5).

In contrast to the appellant argument buttons too are selectable zones (inclusion of button in selectable zones is mentioned in the current published application, par. 16). Moreover, Kimoto is not limited button menus, other textual information menus are also shown in all over the drawings. Furthermore, in regard to the "equally sized areas", Other than a design choice of arrangements of items on the screen, no advantage is mentioned, and since the claim calls "substantially equally zones". Several Figures of Kimoto discloses screen items, command options substantially arranged or zoned/rendered on each respective screens (Figs. 2, 4, 5, 6, etc). Thus, Kimoto also teaches a plurality of selectable zones" wherein the zones are "substantially equally sized areas", as claimed.

In regard to dependent claims 6 and 13. Also not clearly argued by the appellant, as given rejection above, Kimoto discloses maintaining the first and second sets of information in a hierarchical format.

In regard dependent claims 7, 14 and 19. also not clearly argued by the appellant, as given rejection above, Kimoto discloses physically touching the screen to enlarge said one of the pluralities of selectable zones.

f) Regarding claims anticipated by Nakano et al ('787), the applicant argues that Nakano does not tech the independent claims 1, 8 and 15.

In regard to independent claims 1, 8 and 15, the appellant argues that Nakano does not cause one of the pluralities of selectable zones, to become enlarged while presenting a second set of information with the first set of information. the examiner strongly disagrees because as given rejection above, Nakano discloses a screen (e.g. FIG. 3) with main menu items (FIG. 3, MENU 0), wherein if one of the main menu items (e.g., ITEM NAME B) is selected (first set of information), the selected item (first set of information –main menu item), and the sub-menus (second set of information (e.g., ITEM NAME BA, BB &BC – see MENU 2 – FIG. 3) of the selected item (e.g., ITEM NAME B) will encompass the entire display (see FIG. 3).

g) Regarding claims anticipated by Launey et al ('385), the applicant argues that Launey et al do not tech the independent claims 1, 8 and 15

In regard to independent claims 1, 8 and 15, the appellant argues that Launey's sub-menu s not the same as a second set of information which represents additional

details of the first set of information. In addition, no first set of information is joined with a second set of information in Launey et al. such that both of the first and second sets of information are presented on the enlarged, substantially entirely encompassed screen as claimed.

The examiner disagrees because Launey discloses a screen with main menu items (FIG. 3A), wherein if one of the main menu items (e.g., AUDIO/VIDEO) is selected, the selected item (i.e., AUDIO/VIDEO) and the sub-menus (e.g., VCR, TELEVISION, etc, see FIG. 3B) of the selected item (i.e., AUDIO/VIDEO) will encompass the entire display (see FIG. 3B). Thus, Launey disclosed that the second set of information (selectable sub-menu items) joins the first set of information (main menu items) in the enlarged zone (at shown in Figure 3B at least), such that both the first and second sets of information substantially, entirely encompass the screen as required in the independent claims

h) Regarding claims anticipated by Eisenbrandt et al ('428), the applicant argues that Eisenbrandt et al do not tech the dependent claim 20.

In regard to dependent claim 20, Eisenbrandt does explicitly teach the required limitation of claim 20, that is, the appliance constitutes a laundry appliance (Abstract). But the appellant argument is directed to the rejection being non-analogous art combinations. The examiner strongly disagrees. As set forth above each the combine art Nakano and Eisenbrandt are directed to the field of endeavor, that is operating/selecting touch screen menus embedded on an appliance (e.g. washer/dryer or any appliance).

Thus, as set forth above in the rejection, the motivation to combine is found from the reference (Eisenbrandt). That is, since both Nakano and Eisenbrandt discuss configurable display screen, user configurability of the interface permits a user to customize the control system interface to suit that user's particular needs (column 3, lines 16-26). Therefore, it would have been obvious to combine Nakano with Eisenbrandt to obtain the invention as specified in claim 20.

The following new ground(s) of rejection are applicable to appealed claims 15-20:

#### **(11) Related Proceeding(s) Appendix**

Copies of the court or Board decision(s) identified in the Related Appeals and Interferences section of this examiner's answer are provided herein.

Prior Decision 9/21/2007 Appeal Number: 2007-0525

#### **Conclusion**

For the above reasons, it is believed that the rejections should be sustained.

This examiner's answer contains a new ground of rejection set forth in section **(9)** above. Accordingly, appellant must within **TWO MONTHS** from the date of this answer exercise one of the following two options to avoid *sua sponte* **dismissal of the appeal** as to the claims subject to the new ground of rejection:

(1) **Reopen prosecution.** Request that prosecution be reopened before the primary examiner by filing a reply under 37 CFR 1.111 with or without amendment, affidavit or other evidence. Any amendment, affidavit or other evidence must be relevant to the new grounds of rejection. A request that complies with 37 CFR

41.39(b)(1) will be entered and considered. Any request that prosecution be reopened will be treated as a request to withdraw the appeal.

(2) **Maintain appeal.** Request that the appeal be maintained by filing a reply brief as set forth in 37 CFR 41.41. Such a reply brief must address each new ground of rejection as set forth in 37 CFR 41.37(c)(1)(vii) and should be in compliance with the other requirements of 37 CFR 41.37(c). If a reply brief filed pursuant to 37 CFR 41.39(b)(2) is accompanied by any amendment, affidavit or other evidence, it shall be treated as a request that prosecution be reopened before the primary examiner under 37 CFR 41.39(b)(1).

Extensions of time under 37 CFR 1.136(a) are not applicable to the TWO MONTH time period set forth above. See 37 CFR 1.136(b) for extensions of time to reply for patent applications and 37 CFR 1.550(c) for extensions of time to reply for ex parte reexamination proceedings.

Respectfully submitted,

/T.H/

Conferees:

/Tadesse Hailu/  
Primary Examiner, Art Unit 2173

/Kieu Vu/  
Supervisory Patent Examiner, Art Unit 2173

/William L. Bashore/  
Supervisory Patent Examiner, Art Unit 2175

**A Technology Center Director or designee must personally approve the new ground(s) of rejection set forth in section (9) above by signing below:**

Acting Director TC 2100

/Meng-Ai An/  
Supervisory Patent Examiner, Art Unit 2195